

## NOTICE OF PROPOSED ACTION

### BEVERAGE MANUFACTURER AND DISTRIBUTOR PERMANENT REGULATIONS

#### TITLE 14. NATURAL RESOURCES DIVISION 2. DEPARTMENT OF CONSERVATION CHAPTER 5. DIVISION OF RECYCLING

NOTICE IS HEREBY GIVEN that the Department of Conservation (Department), Division of Recycling (Division) proposes to adopt amendments to the California Code of Regulations (CCR). Commencing with Subchapter 3, Chapter 5, Division 2, Title 14 of the CCR, the Division will propose permanent regulations, after the consideration of all comments, objections or recommendations. The proposed amendments are as follows:

#### SUBCHAPTER 3. MANUFACTURERS

##### Article 3. Accounting and Reporting Requirements for Beverage Manufacturers

#### § 2245. PAYMENTS.

Original subsection 2245 (a): This subsection has been deleted. This subsection is no longer necessary because the payment due date is in statute (Section 14575 (h)) and the report due date is in Section 2240 of the regulations.

Subsection (a): has been added to the first paragraph of Section 2245. This revision is necessary in order to be able to reference this paragraph.

Subsection 2245 (c): This subsection has been deleted. The deletion of this subsection will give beverage manufacturers the option of making their processing fee payments separately from filing their processing fee reports.

#### SUBCHAPTER 4. DISTRIBUTORS

##### Article1. Distributor Requirements

#### § 2320. PAYMENTS

Subsection 2320 (e): This subsection has been amended to delete the reference to “subsection (e)” and add the correct reference to Section 14574 (a) of the Act for the calculation of the administrative fee. This subsection has also been amended to delete the last sentence. The deletion of this sentence will give distributors the option of making their redemption payments separately from filing their distributor reports.

INFORMATION IS AVAILABLE UPON REQUEST. Copies of the text, the express terms of the proposed action, the initial statement of reasons, and all of the information upon which this proposal is based are available upon request and at our website: [www.conservation.ca.gov](http://www.conservation.ca.gov). The rulemaking file is available to the public for review during normal business hours at the Division of Recycling, 801 "K" Street, 19th Floor, Sacramento, California. Please contact the agency contact person, Karen Denz, at (916) 322-1899. General or substance questions regarding this file may also be directed to Karen Denz. The backup agency contact person for this rulemaking file is Cheryl Dubose, who may be contacted at (916) 323-0728. Any technical inquiries shall be referred to the appropriate staff to ensure a prompt response.

SUBMITTING WRITTEN COMMENTS. The written comment period permits any interested person, or their authorized representative, to submit written comments addressing the proposed amendments to the Department. Written comments, which offer a recommendation and/or objection, or support the proposed amendment, should indicate the amended section to which the comment or comments are directed. Written comments should be sent to the Department and received before the close of the public comment period, no later than 5:00 p.m. on December 29, 2008. Additionally, we request that written comments reference a subsection or section of the proposed action. Written comments received by the Department after the close of the public comment period will not be responded to in the rulemaking file. Submit your written comments to: Karen Denz, Beverage Manufacturer and Distributor Permanent Regulations, Department of Conservation, Division of Recycling, 801 "K" St., MS 19-02, Sacramento, CA 95814. During the 45-day comment period, written comments may also be E-mailed to: [DORRegulations@consrv.ca.gov](mailto:DORRegulations@consrv.ca.gov), or faxed to (916) 327-8668.

PUBLIC HEARING. A public hearing has not been scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period.

AVAILABILITY OF MODIFIED TEXT. Following the written comment period, and the hearing, if one is held, the department may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the full modified text with the changes clearly indicated shall be made available to the public for at least 15 days prior to the date on which the department adopts the resulting regulations. Requests for copies of any modified regulations should be addressed to the department contact person identified in this notice. The department will accept written comments on the modified regulations for 15 days after the date on which they are first made available to the public.

## INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Under the existing law, the California Beverage Container Recycling and Litter Reduction Act (Act) encourages recycling of specific beverage containers and the reduction of littered beverage containers along the State's highways. Under this Act, the Department, through the Division, is responsible for administering the Act and protecting the integrity of the California Beverage Container Recycling Fund (Fund).

In June 2007, the Department of Conservation, Division of Recycling initiated the Division of Recycling Integrated Information System (DORIIS) project. This project will improve the management processes for the Division's workflow, document tracking, financial reporting, participant tracking, audits and investigations, education and outreach and allow the Division to provide better customer service. DORIIS is a free, Internet-based tool for the recycling community. DORIIS will improve business processes, eliminate duplicative data entry, provide program participants with timely and accurate information and improved data analysis and reporting. This online system will also reduce paper use. DORIIS is a Web-based tool that can be accessed from any computer with an Internet browser.

As a result of DORIIS, the Division needs to amend the regulations to allow beverage manufacturers and distributors to file their reports separately from their payments. DORIIS will allow them to pay by electronic funds transfer and to report electronically; it is not necessary that these two functions happen simultaneously.

The Division will continue to allow program participants to submit paper copies of all required documents and to send payments or receive payments by mail indefinitely.

## AUTHORITY

These regulations are submitted pursuant to the Department's authority under Public Resources Code Sections, 14530.5 (b) and 14536.

## REFERENCE

Public Resources Code Sections, 14506, 14530.5, 14561, 14572.5, 14574 and 14575 (h).

## DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: The Department has determined that adoption of these proposed regulations do not impose any new mandates on local agencies or local school districts.

Cost or savings to any state agency: No savings or additional expenses to state agencies are identified because the implementation of the statute is financed by the beverage container recycling program itself.

Costs to any local agency or school district which must be reimbursed in accordance with Government Code §§17500 through 17630: The Department has determined that the adoption of these proposed regulations does not impose any additional cost obligations on local agencies or on local school districts.

Other non-discretionary costs or savings imposed upon local agencies: No other non-discretionary costs or savings to local agencies have been identified.

Costs or savings in federal funding to the State: No costs or savings in federal funding to the state have been identified.

Significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: The Department has determined that no significant impact to California businesses will result from the adoption of this proposed regulatory language. These proposed regulations serve to clarify and make specific existing statutory requirements.

Potential cost impact on private persons or directly affected businesses: The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Creation or elimination of jobs in California: The Department has determined that the adoption of these regulations will not:

Create or eliminate jobs within California;

Create new nor eliminate existing businesses within California;

Expand businesses currently doing business in California.

Significant effect on housing costs: The Department has determined that the adoption of these regulations will have no significant effect on housing costs.

Effects on small businesses: The Department has determined that the adoption of these proposed regulations will not affect small businesses. These proposed regulations do not mandate actions upon private persons or businesses.

## CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative that it considers or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action. The Department has not identified any adverse impacts resulting from these proposed regulations.

## FINAL STATEMENT OF REASONS

A copy of the final statement of reasons may be obtained, when it becomes available, from the agency contact person or backup contact person identified in this notice.

## ACCESSING INFORMATION REGARDING THIS FILE ON THE DEPARTMENT OF CONSERVATION WEBSITE

The text of the proposed regulations, the Notice of Proposed Action, the Initial Statement of Reasons and the Final Statement of Reasons, when available for review, will be on the Department of Conservation website at:  
[www.conservation.ca.gov](http://www.conservation.ca.gov).